



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Roger Walker, D.C.

Respondent Name

Sunz Insurance Company

MFDR Tracking Number

M4-17-2779-01

Carrier's Austin Representative

Box Number 04

MFDR Date Received

May 18, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "CARRIER IS REQUIRED TO PAY DESIGNATED DOCTOR EXAMS"

Amount in Dispute: \$1,350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Respondent advises the Requestor that this MDR [sic] is the first receipt of the invoice in question ... The Requestor's documents also show the initial invoice as well as the 'reconsideration' invoice was sent to fax number 866-261-8507, which is neither Sunz' or its agent's fax number."

Response Submitted by: Lewis & Backhaus, PC

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 7, 2016	Designated Doctor Examination	\$1,350.00	\$1,100.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the requirements for submitting a medical bill.
3. 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
4. 28 Texas Administrative Code §133.200 sets out the insurance carrier's procedures for receipt of medical bills.
5. 28 Texas Administrative Code §133.210 sets out the procedures for medical documentation.
6. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers'

compensation insurance carrier.

7. 28 Texas Administrative Code §134.235 sets out the fee guidelines for return to work and evaluation of medical care examinations performed on or after September 1, 2016.
8. 28 Texas Administrative Code §134.240 sets out the requirements for designated doctor billing and reimbursement on or after September 1, 2016.
9. 28 Texas Administrative Code §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating on or after September 1, 2016.
10. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
11. The submitted documentation does not include explanations of benefits presented to the requestor prior to medical fee dispute resolution.

Issues

1. Was a medical bill for the services in question submitted to the insurance carrier in accordance with 28 Texas Administrative Code §133.20?
2. Did Sunz Insurance Company reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
3. Is Roger Walker, D.C. entitled to reimbursement for the services in question?

Findings

1. Dr. Walker is seeking reimbursement of \$1,350.00 for a designated doctor examination performed on September 7, 2016. Lewis & Backhaus, PC, in its position statement submitted on behalf of Sunz Insurance Company (Sunz), stated, "The Respondent advises the Requestor that this MDR [sic] is the first receipt of the invoice in question ... The Requestor's documents also show the initial invoice as well as the 'reconsideration' invoice was sent to fax number 866-261-8507, which is neither Sunz' or its agent's fax number."

28 Texas Administrative Code §133.20 requires the health care provider to submit a medical bill to the insurance carrier except when billing the employer. Review of the submitted documentation finds that Dr. Walker faxed medical bills with reports to Sunz and Roger Oberle at fax number 866-261-8507. Fax confirmation sheets support that the faxes were completed successfully on October 19, 2016, and January 3, 2017.

The division finds that fax number 866-261-8507 is the insurance carrier's fax number as reported by the adjuster, Roger Oberle on the Request for Designated Doctor Examination (DWC032) submitted to the division. Therefore, the division concludes that a medical bill for the services in question submitted to the insurance carrier in accordance with 28 Texas Administrative Code §133.20.

2. Dr. Walker contends that he received "NO RESPONSE TO BILLING." Furthermore, in its reconsideration request, Pacific Billing Services, Inc., an agent of Dr. Walker, alleges that "the provider has not received an EOB within 50 days from submitting the medical bill."

According to Texas Labor Code Sec. 408.027(b), Sunz was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the medical bill from Dr. Walker. Corresponding 28 Texas Administrative Code §133.240(a) also required Sunz to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

(6) Final action on a medical bill—

(A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or

(B) denying a charge on the medical bill.

The evidence noted above supports the written statement from Dr. Walker that the medical bill for the service in dispute was initially received by Sunz on October 19, 2016.

When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

All workers compensation insurance carriers are expected to fulfill their duty to take final action as required by the division's laws and adopted administrative rules. The division finds that:

- no evidence was presented to the division to support that Sunz took final action by paying, reducing, or denying the services in dispute within 45 days; and
- no evidence was presented to the division to support that Sunz timely presented **any** defenses to Dr. Walker on an explanation of benefits as required under 28 Texas Administrative Code §133.240 prior to the request for medical fee dispute resolution.

Absent evidence that Sunz raised any defenses that conform to the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division concludes that Sunz failed to reduce or deny the disputed services not later than the 45th day after receiving the medical bill. Therefore, the services in question will be reviewed in accordance with applicable fee guidelines.

3. Per 28 Texas Administrative Code §134.250(2)(A),

If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added.

Paragraph (3) states, "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that Dr. Walker performed an evaluation of MMI and found that the injured employee was not at MMI. Therefore, the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204(k),

... When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports...

Further, 28 Texas Administrative Code §134.240(2) states,

When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection:

- (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in §134.235 of this title;
- (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in §134.235 of this title; and
- (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in §134.235 of this title.

The submitted documentation indicates that Dr. Walker performed examinations to determine if the injured employee's inability to obtain or retain employment was a direct result of the compensable injury and the injured employee's work status from July 1, 2016 until the date of the examination, as ordered by the division. Therefore, the correct MAR for these examinations is \$750.00.

The total MAR for the disputed services is \$1,100.00. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,100.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$1,100.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Laurie Garnes	June 9, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.